



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

Keene Education Association, NEA-NH

v.

Keene School District

Case No. E-0120-4

Decision No. 2015-250

Pre-Hearing Memorandum and Order

Date of Conference: November 23, 2015

Appearances: James F. Allmendinger, Esq., for the Complainant

James O'Shaughnessy, Esq., for the Respondent

Background:

On August 14, 2015, the Keene Education Association, NEA-NH (Association) filed an unfair labor practice complaint alleging that the Keene School District (District) violated RSA 273-A:5, I (a), (e), (g), (h), and (i) when it unilaterally adopted administrative procedures that changed the terms and conditions of bargaining unit members' employment. The Association asserts, among other things, that the District requested that the Association agree to reopen the parties' collective bargaining agreement (CBA) to negotiate changes to the personal leave provision; that the District threatened to withhold bargaining unit employees' pay if the Association refused to reopen the CBA; and that, after the Association refused to reopen the CBA, the District unilaterally issued administrative procedures imposing its own interpretation of the personal leave provision on the Association. The Association requests, among other things, that the PELRB order the District to rescind the administrative procedures in question, to

cease and desist from unilaterally imposing any further procedures, policies, or directives, and to address any desired changes through the collective bargaining process.

The District denies the charges and claims, among other things, that the administrative procedures adopted by the District do not affect any term or condition of employment and are within the District's managerial prerogative. The District also argues that the PELRB lacks jurisdiction over the complaint because the gravamen of the complaint is a breach of the CBA; the CBA contains a grievance procedure culminating in final and binding arbitration; and the Association has commenced but has not completed the grievance process. The District requests that the PELRB dismiss the complaint.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the PELRB has jurisdiction over the Association's claims.
2. Whether the District violated RSA 273-A:5, I (a), (e), (g), (h), and/or (i) as charged by the Association.

WITNESSES and EXHIBITS:

As outlined in the parties' Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their lists of witnesses and exhibits in conformity with Pub 203.01. It is understood that each party may rely on the representations of the other party that witnesses and exhibits appearing on their respective lists will be available at the hearing.

DECISION

1. "Parties" means the Association, the District or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The District filed an assented to motion to continue the adjudicatory hearing currently scheduled for December 10, 2015. This motion was discussed at the pre-hearing

conference. Based on the parties' representations, the motion to continue is hereby granted. No further continuances shall be granted except as provided in Pub 201.08. Accordingly, the adjudicatory hearing is rescheduled for **January 7, 2016, at 8:30 a.m.** A rescheduling notice shall issue forthwith.

3. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **December 28, 2015**.
4. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five (5) copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **January 7, 2016, at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 4 hours. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

Date: 11/23/15



Karina A. Lange, Esq.
Staff Counsel/Hearing Officer

Distribution: James O'Shaughnessy, Esq.
Thomas Trenholm, Esq.
James F. Allmendinger, Esq.